

wherein said external cap substantially encloses said crown cap when said external cap is threaded onto said neck of said bottle.

K1 2. (Amended) The dual bottle closure of Claim 1 wherein said external closure includes an insert that fits within said external cap.--

Please cancel Claim 4.

Please amend Claim 5 as follows:

A2 --5. (Amended) The dual bottle closure of Claim 2 wherein said insert is comprised of plastic.--

REMARKS

The Office Action of November 20, 2002 and the references cited therein have been carefully studied and in view of the above changes and the following representations, reconsideration and allowance of this application are most respectfully requested.

Applicant affirms the election of the invention of Species A (Figures 2 and 5), claims 1-5 made during a telephone conversation with the Examiner on November 7, 2002. Applicant makes this election without traverse.

The Examiner has rejected Claim 5 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner states that the term "insert" in Claim 5 lacks proper antecedent basis.

Applicant has amended Claim 5 in order to provide proper antecedent basis for the term "insert" by changing the claim dependency from Claim 4 to Claim 2. Applicant believes that this amendment overcomes the Examiner's rejection.

Applicant has also amended Claim 2 to more clearly recite that an insert fits within the external cap of the external closure. This amendment is fully supported by the specification as originally filed and does not add new matter.

The Examiner has rejected Claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by Podel. According to the Examiner, Podel discloses a dual bottle closure/sealed package comprising a bottle having an opening and a neck with external screw threads formed thereon, an external cap with internal screw threads, and an imperforate crown cap. Applicant respectfully disagrees.

Applicant has amended the claims in order to more clearly recite his invention. Applicant's invention is directed toward a dual bottle closure having a ceramic bottle with an opening and a neck with external screw threads formed thereon; an external closure in the form of an external ceramic cap for covering the opening of the bottle, the external cap having internal screw threads which mate with the screw threads of the neck; and an internal closure in the form of an imperforate crown cap secured to the bottle; wherein the external cap substantially encloses the crown cap when the external cap is threaded onto the neck of the bottle. Applicant now recites that the bottle and external cap are ceramic. This amendment is fully supported by the specification as originally filed and does not add any new matter.

Podel does not disclose nor render obvious a bottle and external cap made from ceramic. Podel is directed toward a closure for a ketchup bottle. (See column 2, lines 49-54.)

Podel does not disclose a ceramic bottle, as the Examiner acknowledges. (See the Office Action at page 5, paragraph 10, second paragraph.) Typically, ketchup bottles are made from glass or plastic, not ceramic. Nor would it be obvious or desirable to make a ketchup bottle from ceramic as it would not be very cost efficient to do such. Also, it would not be very practical to use a ceramic ketchup bottle. Ceramic bottles are typically used for decoration. Ketchup bottles are utilitarian and are seldom used as decorative objects. Thus, Applicant's invention, as it is now being recited, is not disclosed or rendered obvious by Podel.

The Examiner has rejected Claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by Driscoll. The Examiner states that Driscoll discloses a dual bottle closure comprising a bottle having an opening and a neck with external screw threads formed thereon, an external cap with internal screw threads, and an imperforate crown cap. Applicant respectfully disagrees.

Driscoll discloses closures for bottles, metal, plastic, and paper cans, and drums. (See column 1, lines 15-17.) Applicant's invention is directed toward a decorative bottle and cap that are made from ceramic. Driscoll does not disclose nor suggest a ceramic bottle. The bottles described in Driscoll are to be used to dispense medicinal liquids, powders, and tablets. It would be neither cost efficient nor practical to use decorative, ceramic bottles for such purposes. As such, it would not be obvious to modify the invention disclosed in Driscoll to include a ceramic bottle. Therefore, Driscoll does not disclose or suggest Applicant's invention as it is now being claimed.

The Examiner rejects Claims 1-3 under 35 U.S.C. §103 (a) as being unpatentable over Podel in view of Granger et al. The Examiner takes the position that Podel does not disclose

an insert carrying internal screw threads but that Granger disclose that it is known to provide a plastic insert carrying internal screw threads and teaches the benefits of esthetic quality and durability for a large number of opening cycles. According to the Examiner, it would have been obvious to modify the plastic insert of Podel with the plastic insert of Granger et al. and that one having ordinary skill in the art would be motivated to make such a modification so as to obtain the benefit of improved esthetic quality and durability for a large number of opening cycles. Applicant respectfully disagrees.

Applicant's comments made above regarding Podel apply to this rejection as well and will not be repeated here. Granger et al. add little, if anything, to the teaching of Podel. Granger et al. disclose a sealing cap for closing screw top receptacles where the receptacle has a metal cap and a threaded insert disposed within the metal cap. The cap can be screwed onto the receptacle. The receptacles disclosed in Granger et al. are to be used as flasks or bottles containing alcohol. Granger et al. do not disclose nor suggest a ceramic bottle. Neither would it be obvious to modify the receptacles disclosed in Granger et al. to be made of ceramic. Again, as discussed above regarding Podel, it would be impractical and costly to use ceramic receptacles for storing food or consumable liquids. It would not be obvious to modify Granger et al. to include the use of a ceramic bottle. Thus, Applicant's invention is not disclosed nor suggested by Granger et al. alone or in combination with Podel. Furthermore, combining the teachings of Podel and Granger et al. as suggested by the Examiner would not result in Applicant's invention.

The Examiner rejects Claims 1, 4, and 5 under 35 U.S.C. §103(a) as being unpatentable over Podel in view of Miller. The Examiner states that Podel does not show a bottle or cap made from ceramic and does not disclose the material forming the liner. The Examiner

takes Official Notice of the fact that forming the bottle and cap from ceramic is an obvious exchange of suitable materials and that the selection of ceramic to form the bottle and cap lacks criticality in the specification or that the specification fails to teach the use of ceramics as a best mode over other suitable materials. The Examiner also states that Miller discloses a container cap liner and that it is known to fabricate cap liners from plastic. According to the Examiner, it would have been obvious to one having ordinary skill in the art to provide a plastic liner within the cap of a bottle as taught by Miller in order to obtain the benefit of having improved sealing characteristics. Applicant respectfully disagrees.

Applicant's comments made above regarding Podel are applicable to this rejection as well and will not be repeated here. Applicant vehemently disagrees with the Examiner's position that forming the bottle and cap from ceramic is an exchange of suitable materials and that the use of ceramic lacks criticality in Applicant's specification.

Applicant has already addressed the nonobviousness of exchanging ceramic for the various materials disclosed in the prior art relied upon by the Examiner. Furthermore, Applicant has disclosed in the specification the importance or criticality of using a plastic insert within a ceramic cap where the cap is screwed onto a ceramic bottle. (See page 1, last paragraph.) Also, Applicant has indicated that the use of a ceramic cap and bottle is the preferred embodiment. (See page 2, lines 16-20; page 3, line 1; and the Abstract.) Therefore, the use of ceramic is an important feature of Applicant's invention and it would not be obvious to exchange the use of ceramic with other materials as noted by the Examiner

Miller discloses a container cap liner made from a plastic material. Miller does not disclose or suggest the use of a ceramic cap and bottle. Therefore, combining the teachings of Miller and Podel would not result in Applicant's invention.

The Examiner rejects Claims 1, 4, and 5 under 35 U.S.C. §103(a) as being unpatentable over Driscoll in view of Miller. The Examiner states that Driscoll does not show a bottle or cap made from ceramic or the material forming the liner. Again the Examiner takes Official Notice of the fact that forming the bottle and cap from ceramic is an obvious exchange of suitable materials and that Applicant fails to disclose the criticality of using ceramic. The Examiner also states that Miller discloses a container cap liner made from plastic and that it would have been obvious to one having ordinary skill in the art to provide a plastic liner within the cap of a bottle as taught by Miller in order to obtain the benefit of improved sealing characteristics. Applicant respectfully disagrees.

Applicant's comments made above regarding Driscoll, the Examiner's Official Notice, and Miller apply to this rejection as well and will not be repeated here. That is, neither Podel nor Miller discloses or suggests the use of a ceramic cap and bottle. Furthermore, Applicant has directed the Examiner's attention to the criticality of using a plastic insert within a ceramic cap that screw onto a ceramic bottle and has explained why it would not be obvious to freely exchange the use of ceramic with other types materials as noted by the Examiner. Therefore, combining the teachings of Driscoll and Miller would not result in Applicant's invention.

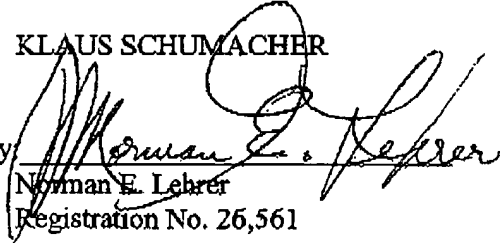
In view of all of the foregoing, Applicant submits that the claims clearly and patentably distinguish over the prior art cited by the Examiner. It is believed that these claims are

in proper condition for allowance and an early action toward that end is most respectfully solicited.

Respectfully submitted,

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By


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Marked-Up Version of the Claims

In the Claims:

Please amend Claims 1 and 2 as follows:

--1. (Amended) A dual bottle closure comprising:

a ceramic bottle having an opening and a neck with external screw threads formed thereon;

an external closure in the form of an external ceramic cap for covering said opening of said bottle, said external cap having internal screw threads which mate with said screw threads of said neck; and

an internal closure in the form of an imperforate crown cap secured to said bottle;

wherein said external cap substantially encloses said crown cap when said external cap is threaded onto said neck of said bottle.

2. (Amended) The dual bottle closure of Claim 1 wherein said external closure includes an insert that fits within said external cap.--

Please cancel Claim 4.

Please amend Claim 5 as follows:

--5. (Amended) The dual bottle closure of Claim [4] 2 wherein said insert is comprised of plastic.--